

Title 142 - NEBRASKA EQUAL OPPORTUNITY COMMISSION  
ACT PROHIBITING UNJUST DISCRIMINATION  
IN EMPLOYMENT BECAUSE OF AGE

Chapter 2 - PROCEDURE

001 Filing, Amending and Withdrawal of Complaint.

001.01 Who may file. Any person who claims to have been injured by a discriminatory employment age practice may file a complaint with the Commission. The complaint shall be in writing and under oath of the complainant.

001.02 Form. A complaint shall be filed with the Commission. The complaint shall be signed by the complainant under oath or affirmation before a notary public or other person duly authorized by law to administer oaths and affirmations. The complaint may be filed on forms provided by the Commission, blank copies of which will be supplied by the Commission upon request and will be available at the Commission offices. Notarial service will be without charge by the Commission.

001.03 Contents. A complaint shall contain the following:

001.03A The full name, address, and telephone number, if any, of the person claiming to be aggrieved.

001.03B The full name, address, and telephone number, if known, of the respondent.

001.03C A plain and concise statement of the facts alleged to constitute a discriminatory employment age practice or practices.

001.03D The date and place in the State of Nebraska where the alleged discriminatory employment age practice was committed.

001.03E A statement as to any other action, if any, civil or criminal, instituted by or on behalf of the complainant in any other forum, based on the same facts as alleged in the complaint, together with a statement as to the status or disposition of such other action.

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001.04 Place and Manner of Filing. The complaint may be filed by personal delivery, ordinary mail, or registered or certified mail, addressed to the office of the Commission in Lincoln or any branch office of the Commission.

001.05 Amendment of Complaint. Notwithstanding the provisions of Rule 001.03 of these Rules and Regulations, a complaint may be amended as follows: to cure technical defects or omissions; to clarify and amplify allegations made therein; to allege additional acts which constitute a discriminatory employment age practice or practices which are related to or growing out of the subject matter of the original complaint. All such amendments will relate back to the original filing date. Upon any amendment of a complaint, a copy thereof shall promptly be served by the Commission on the respondent by certified or registered mail or through personal service.

001.06 Answer to Complaint. The respondent may file an answer to the complaint at any time prior to the expiration of twenty (20) days after the date she or he receives the complaint. The answer shall be sworn to before a notary public. With leave of the Commission an answer may be amended at any time. The Commission will permit answers to be amended whenever it believes it would be reasonable and fair to do so.

001.07 Withdrawal. A filed complaint or any part thereof may be withdrawn, by request in writing by the complainant, and written notice of such withdrawal shall be sent by the Commission by registered or certified mail, to all parties who have been previously notified of the complaint.

002 Action Upon Complaint.

002.01 Duties of Commission Staff. Each complaint filed by a complainant shall be docketed and given a case number, and a copy of said complaint shall promptly be served by the Commission on the respondent in person or by registered or certified mail.

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002.02 Investigation. The Commission shall institute an investigation by its employees to ascertain all of the facts relating to the alleged discriminatory employment age practice or practices set forth in the complaint. The staff shall initially solicit information from all parties and utilize interrogatories, depositions, or subpoenas to facilitate a prompt investigation. Interrogatories shall be answered within fifteen (15) days of receipt and the person to whom the interrogatories are directed shall be so informed.

002.03 Dismissal. The report of the investigation shall be presented to the Commission by the Executive Director. The Commission shall dismiss the complaint (i) if it is determined that the Commission does not have jurisdiction over the matter; or (ii) if it is determined that there is not reasonable cause to believe that the alleged discriminatory employment age practice has been committed; or (iii) if the matter is adjusted and settled during the investigation; or (iv) if the complainant has failed to cooperate fully in the investigation of the complaint; or (v) if the complaint has been filed in any court of competent jurisdiction.

No Commission employee, during the investigation of a complaint, shall propose terms of settlement and adjustment to the respondent's attorney or to the respondent; but, at the request of the respondent's attorney or the respondent, may advise the respondent of possible terms of settlement and adjustment, and shall communicate to the complainant and to the Commission any terms of settlement and adjustment proposed by the respondent. Any terms of settlement arrived at during the investigation shall be submitted to the Commission and the complaint shall be dismissed, and the case closed as having been adjusted and settled during investigation.

The Commission shall notify all parties of any dismissal of a complaint by personal service or registered or certified mail which notification shall specify the reason or reasons for dismissal.

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002.04 Reasonable Cause Findings. If the Commission, based upon the report of its investigation by its employees, determines that there is reasonable cause to believe that the alleged discriminatory employment age practice has been committed, it may bring a civil action in its name against the respondent in any court of competent jurisdiction.